

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

KENNETH L. MITCHELL,)
vs. Plaintiff,) Case No. 13-cv-0627-MJR-SCW
RANDY DAVIS,)
Defendant.)

MEMORANDUM & ORDER

REAGAN, District Judge:

This § 1983 civil rights case is before the Court on Defendant Randy Davis' Motion to Dismiss for Lack of Prosecution (Doc. 19). On June 4, 2014, pursuant to 28 U.S.C. §§ 636(b) and (c), Magistrate Judge Stephen C. Williams recommended that the motion—to which Plaintiff made no response—be granted. Under 28 U.S.C. § 636(b)(1) and SDIL-LR 73.1(b), Plaintiff was given until June 23, 2014, to lodge any objections to Judge Williams' Report and Recommendation ("R&R"). No objection has been filed.

While Plaintiff's failure to object means the Court can summarily adopt Judge Williams' R&R (pursuant to 28 U.S.C. 636(b)(1)(C), *de novo* review is not required), it bears mentioning that Judge Williams' analysis and conclusions are entirely sound. Plaintiff failed to appear for a properly noticed deposition, failed to respond to Defendant's motion, failed to keep the Court informed of his whereabouts as the case progressed, and failed to appear at a court hearing on Defendant's Rule 41 motion. *Johnson v. Chi. Bd. of Educ.*, 718 F.3d 731, 733 (7th Cir. 2013) (serious and/or repeated errors a prerequisite for Rule 41(b) dismissal). He was warned several times that dismissal would be the consequence for his inaction. *See Ball v. City of Chi.*, 2 F.3d 752, 760 (7th Cir. 1993) (explicit warning required before Rule 41(b) dismissal).

Because Plaintiff has failed to prosecute his case with diligence, and because he failed to follow discovery orders in the case, the Court **ADOPTS IN FULL (Doc. 24)** Judge Williams' R&R, **GRANTS** Defendant's Motion to Dismiss (**Doc. 19**), and **DISMISSES** this case **WITH PREJUDICE**. *See Lucien v. Breweur, 9 F.3d 26, 28 (7th Cir. 1993)* (dismissal is a "feeble sanction" if it is without prejudice).

The Clerk is directed to **CLOSE** the case.

IT IS SO ORDERED.

DATE: July 1, 2014

s/ Michael J. Reagan

MICHAEL J. REAGAN

United States District Judge